

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

EDILANYI MABELL SURIEL MONTE DE OCA,

Plaintiff,

-v-

AGAPITO DELA CRUZ, et al.,

Defendants.

CIVIL ACTION NO.: 20 Civ. 8442 (VBS) (SLC)

ORDER

SARAH L. CAVE, United States Magistrate Judge:

On April 22, 2021, this matter was referred to me to conduct an inquest and to issue a report and recommendation concerning Plaintiff's damages. (ECF No. 62). On April 23, 2021, the Court directed Plaintiff to submit proposed findings of fact and conclusions of law concerning damages no later than May 25, 2021 (the "April 23, 2021 Order"). (ECF No. 63). Plaintiff was also directed to serve the April 23, 2021 Order on Defendants and to file proof of service. (Id. at 2). The Court extended Plaintiff's filing deadline by Orders dated May 21, 2021, June 18, 2021, and July 27, 2021. (ECF Nos. 65, 68, 71). On August 9, 2021, in response to an Order to Show Cause (ECF No. 76), Plaintiff filed its proposed Findings of Fact and Conclusions of Law as to Damages. (ECF No. 78).

Plaintiff's filings at ECF Nos. 77 and 78 resolve the Court's Order to Show Cause. Accordingly, the Court orders as follows:

1. Plaintiff is directed to serve this Order on Defendants and to file proof of service by no later than **August 13, 2021**.
2. Defendants shall submit their response, if any, to Plaintiff's submissions

no later than **August 27, 2021**. IF DEFENDANTS (1) FAIL TO RESPOND TO PLAINTIFF'S SUBMISSIONS, OR (2) FAIL TO CONTACT MY CHAMBERS BY AUGUST 27, 2021 AND REQUEST AN IN-COURT HEARING, I INTEND TO ISSUE A REPORT AND RECOMMENDATION CONCERNING DAMAGES BASED ON PLAINTIFF'S WRITTEN SUBMISSIONS ALONE WITHOUT AN IN-COURT HEARING. See Transatlantic Marine Claims Agency, Inc. v. Ace Shipping Corp., 109 F.3d 105, 111 (2d Cir. 1997) ("[I]t [is] not necessary for the District Court to hold a hearing, as long as it ensured that there was a basis for the damages specified in a default judgment." (quoting Fustok v. ContiCommodity Servs. Inc., 873 F.2d 38, 40 (2d Cir. 1989))).

Dated: New York, New York
August 9, 2021

SO ORDERED.


SARAH L. CAVE

United States Magistrate Judge